

Message Text

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ACTION CPR-01

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FM AMEMBASSY TOKYO

TO SECSTATE WASHDC PRIORITY 7750

LIMITED OFFICIAL USE SECTION 1 OF 2 TOKYO 01409

E.O. 11652 N/A

TAGS: PFOR, AFSI, JA

SUBJECT: DIPLOMATIC STATUS OF OFFICIAL LANGUAGE STUDENTS

REF: STATE 101086, MAY 16, 1974

SUMMARY FONOFF REQUESTED FULLY RECIPROCAL TREATMENT OF JAPANESE STUDENT-DIPLOMATS STUDYING AT U.S. INSTITUTIONS AND NOTIFIED US OF INTENTION TO WITHDRAW ALL RIGHTS AND PRIVILEGES ACCORDED U.S. LANGUAGE STUDENTS AT FSI YOKOHAMA LANGUAGE SCHOOL IF THIS TREATMENT NOT GRANTED. EMBASSY REQUESTS GUIDANCE. END SUMMARY.

1. ON JANUARY 24, 1975, DEPUTY CHIEF OF PROTOCOL NOMURA ASKED POLCOUNS TO CALL AT MINISTRY TO RECEIVE RESULTS OF LENGHTY FONOFF STUDY OF PROBLEM OF STATUS OF FOREIGN DIPLOMATIS ASSIGNED TO LANGUAGE AND OTHER STUDIES ABROAD. ALSO PRESENT AT MEETING WERE REPRESENTATIVES OFMAEICAN AFFAIRS BUREAU AND LEGAL AFFAIRS BUREAU. IN SUBSEQUENT MEETING JANAUARY 28 NOMURA ANSWERED NUMBER OF FURTHER QUESTIONS ABOUT GOJ THINKING. FOLLOWING IS UMMARY OF POSITION WHICH EMERGED.

2. MONURA REFERRED TO VARIOOUS STATUS OF U.S. OFFICERS ASSIGNED TO STUDY AT THE FSI LANGUAGE SCHOOL YOKOHAMA. HE NOTED THAT IN SEPTEMBER 1974TWO NEWLY ASSIGNED STUDENTS WERE FINALLY GRANTED FOOOFF IDENTIFICATIONS CARDS AND DE FACTO DIPLOMATIC STATUS ON GROUNDS OF PERSONAL HARDSHIP RESULTING FRM THEIR ARRIVAL IN JAPAN WITHOUT

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KNOWLEDGE OF GOJ RECONSIDERATIONOF STATUS PROBLEMS. AS

RESULT OF THOSE INCIDENTS, HOWEVER, FONOFF HAD INITIATED A WORLDWIDE SURVEY OF PRACTICES AND POLICIES OF OTHER GOVERNMENTS. QUERIES PUT TO 44 GOVERNMENTS REVEALED THAT 30 RECOGNIZE LANGUAGE STUDIES BY FOREIGN GOVERNMENT OFFICIALS AS NORMAL DIPLOMATIC FUNCTION AND GRANT SUCH STUDENTS FULL DIPLOMATIC STATUS AND PRIVILEGES. 11 GOVERNMENTS RESPOND THAT THEY DO NOT ACCEPT STUDENTS AS QUOTE DIPLOMATIC AGENTS UNQUOTE, AND THREE RESPONDED THAT THEY TREAT SUCH STUDENTS ON BASIS OF PRINCIPLE OF RECIPROCITY.

3. NOMURA SAID GOJ HAS DETERMINED THAT (A) IT RECOGNIZES LANGUAGE STUDY AS NORMAL DIPLOMATIC FUNCTION, AND (B) WISHES TO GRANT FULL DIPLOMATIC ACCREDITATION TO ANY DIPLOMAT ASSIGNED TO JAPAN FOR LANGUAGE OR OTHER PROFESSIONAL STUDIES, WHEREVER THEY MAY BE CONDUCTED IN JAPAN; BUT (C) SUCH GRANT OF ACCREDITATION TO U.S. AND OTHER STUDENTS MUST BE ON THE BASIS OF FULL RECIPROCITY. SINCE JAPANESE STUDENTS-DIPLOMATS IN THE U.S ARE NOT ACCORDED FULL DIPLOMATIC STATUS, THE GOJ CANNOT REPEAT CANNOT EXTEND SUCH ACCREDITATION TO U.S. OFFICIAL STUDENTS AT THE YOKOHAMA SCHOOL. NOMURA STATED THAT WE SHOULD CONSIDER THIS DETERMINATION TO BE EFFECTIVE IMMEDIATELY, BUT ASSURED US THAT NO PRECIPITOUS ACTION WOULD BE TAKEN UNTIL THE TWO GOVERNMENTS HAD HAD OPPORTUNITY TO DISCUSS THE PROBLEM FULLY.

4. ON AUGUST 8, 1974, IN RESPONSE TO FONOFF REQUEST FOR INFORMATION CLARIFYING RELATIONSHIP BETWEEN EMBASSY AND LANGUAGE SCHOOL, THE EMBASSY PROVIDED THE FONOFF WITH AN INFORMAL MEMORANDUM WHICH STIPULATED THAT THE YOKOHAMA LANGUAGE SCHOOL IS AN INTEGRAL PART OF THE EMBASSY. IN REFERENCE TO POINT EMPHASIZED IN THAT MEMO, FONOFF STATES NOW THAT THE SCHOOL HAS NEVER BEEN RECOGNIZED BY THE MINISTRY AS A DIPLOMATIC ESTABLISHMENT. FURTHERMORE,

NOMURA PROVIDED US A COPY OF THE DEPARTMENT'S CURRICULAR NOTE DATED DECEMBER 24, 1974, WHICH THE MINISTRY INTERPRETS AS EXCLUDING FULL-TIME LANGUAGE STUDIES FROM THE DEFINITION OF DIPLOMATIC DUTIES. NOMURA WENT ON TO SAY MINISTRY DOES NOT PERCEIVE ANY SUBSTANTIAL DIFFERENCE BETWEEN LIMITED OFFICIAL USE

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ACTIVITIES OF U.S. STUDENTS AT YOKOHAMA AND THOSE OF JAPANESE ASSIGNED TO STUDIES IN U.S. BOTH ARE MEMBERS OF OFFICIAL SERVICE ASSIGNED BY RESPECTIVE GOVERNMENT AGENCIES TO STUDY ABROAD, PAID, PAID, SUPERVISED AND SUPPORTED BY RESIDENT EMBASSIES. FURTHERMORE NOMURA SAID JAPANESE STUDENTS IN U.S. ARE CONSIDERED BY GOJ TO CARRY OUT REGULAR FUNCTIONS OF PUBLIC RELATIONS NATURE DURING THEIR STUDENT RESIDENCE, SPEAKING ON INVITATION FROM

AMERICAN GROUPS AND REPORTING ON THEIR ACTIVITIES AND
OBSERVATIONS TO THE EMBASSY IN WASHINGTON. THE MINISTRY
FEELS SUCH STUDENTS SHOULD BE GRANTED DIPLO-
MATIC ACCREDITATION,
IN ACCORDANCE WITH THE USUAL INTERNATIONAL PRACTICE UNIQUE.

5. NIMURA EXPRESSED REGRET THAT THE MINISTRY WAS COMPELLED
TO ADOPT ITS PRESENT POSITION HE URGED THAT THE
DEPARTMENT FIND SOME WAY TO ACCORD JAPANESE STUDENTS IN
THE U.S. ACCREDITATION AS DIPLOMATS. HE SAID THE MINISTRY
WAS FULLY AWARE OF LEGAL PROBLEMS BETWEEN FEDERAL AND
STATE AND LOCAL JURISDICTIONS; THEY ALSO HAVE RECEIVED
A CERTAIN AMOUNT OF INFORMATION CONCERNING THE DEPARTMENT'S
PROBLEMS IN THIS AREA WITH ABUSES BY OTHER MISSIONS.
(COMMENT: TO OUR KNOWLEDGE JAPANESE HAVE NOT ABUSED
STATUS.) HE WONDERED, AS AN EXAMPLE OF A POSSIBLE DIRECTION
FOR FURTHER EXPLORATION, WHETHER THE DEPARTMENT COULD
AGREE TO JAPANESE STUDENT-DIPLOMAT'S ESTABLISHING OFFICIAL
AND PERMANENT RESIDENCE IN THE EMBASSY IN WASHINGTON,
ALLOWING THEM THE TEMPORARY UNIQUE RESIDENCE ELSEWHERE FOR
PURPOSE OF STUDY WITHOUT REMOVING DIPLOMATIC ACCREDITATION.
HE ACKNOWLEDGED THAT THIS WOULD IN NO WAY SOLVE THE
DIFFICULTY PRESENTED BY THE DEPARTMENT'S POSITION THAT
LANGUAGE STUDIES AND RELATED ACADEMIC ACTIVITIES ARE NOT
NORMAL DIPLOMATIC FUNCTIONS. HE SAID GOJ WOULD BE WILLING
TO ABSTAIN FROM THE EXERCISE OF CERTAIN RIGHTS AND
PRIVILEGES, PROVIDING THE U.S. AGREED TO DO THE SAME IN
JAPAN, BUT THE MINISTRY CONSIDERS IT ESSENTIAL THAT
JAPANESE STUDENTS IN THE U.S. BE ACCREDITED IF THE
SAME STATUS IS TO BE ACCORDED U.S. STUDENTS IN JAPAN.

6. COMMENT; IN DISCUSSION WITH NIMURA, THE CONSUL REMAINED
UNABLE OR UNWILLING, AS THEY HAVE ON NUMEROUS OCCASIONS IN
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THE PAST, TO IDENTIFY SPECIFIC PROBLEMS AFFECTING JAPANESE
STUDENTS IN THE U.S. UNDER PRESENT ARRANGEMENTS. THEY

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ACTION CPR-01

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MENTIONED GENERALLY STUDENTS' FEELING OF VULNERABILITY UNDER STATE AND LOCAL LAWS IN CASES OF AUTOMOBILE ACCIDENTS OR OTHER INCIDENTS. THEY ALSO MENTIONED A FEW POSSIBLE TAX-FREE BENEFITS, E.G., GASOLINE, IMPORT OF LIQUOR AND OTHER COMMODITIES FROM JAPAN ETC. THEY APPEARED, HOWEVER, TO HAVE BASED THEIR DETERMINATION MORE ON A QUESTION OF PRINCIPLE. THEY PERCEIVE THE FORMAL STATUS OF STUDENTS ACCORDED BY THE TWO GOVERNMENTS, RESPECTIVELY, AS INEQUITABLE. NOMURA MENTIONED THE MINISTRY'S CONCERN THAT OPPOSITION DIET QUESTIONING AT SOME POINT MAY BRING TO LIGHT THAT GOJ HAD RELAXED IN ACCEPTANCE OF UNEQUAL TREATMENT BY THE U.S.

7. IT IS OUR IMPRESSION THAT MINISTRY DOES NOT INTEND GO BACK OFF FROM ITS NEW POSITION. IT IS EAGER FOR AN AMICABLE SOLUTION, HOWEVER, AND WILLING TO COOPERATE FULLY IN WORKING OUT FORMULA THAT WOULD SATISFY GOJ REQUIREMENTS IN PRINCIPLE. WE ASSUME, THEREFORE, THAT MINISTRY INTENDS NO IMMEDIATE ACTION AGAINST U.S. PERSONNEL IN JAPAN, AND WE PLAN TO CONTINUE OPERATIONS AS AT PRESENT.

8. WE WILL APPRECIATE THE DEPARTMENT'S COMMENTS ON GOJ POSITION AS SOON AS POSSIBLE. IN THE MEANTIME, WE ARE LOOKING INTO PRACTICAL STATUS REQUIREMENTS OF OUR LANGUAGE STUDENTS TO PERMIT CONTINUED EFFECTIVE OPERATION OF THE PROGRAM AS PRESENTLY CONSTITUTED. WHILE MUCH WOULD DEPEND UPON THE STRINGENCY WITH WHICH FONOFF IMPLEMENTS ITS INSISTENCE UPON RECIPROCITY, WE NEED TO CLARIFY PRACTICAL IMPACT OF REMOVAL OF VARIOUS PRIVILEGES AND IMMUNITIES ON ABILITY OF U.S. STUDENTS TO LIVE AND WORK IN JAPAN. IN THE LIMITED OFFICIAL USE

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DEPARTMENT'S COMMENTS, WE WOULD BE INTERESTED IN AN INDICATION OF ANY AREAS WHERE LAWS AND REGULATIONS WOULD PERMIT FORMAL CHANGES IN PRESENT PATTERN OF ACCREDITATION ACCORDED JAPANESE STUDENT-DIPLOMATS AND INFORMAL CHANGES IN ARRANGEMENTS FOR THEIR DAILY LIVING.
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